

VZCZCXRO1571  
OO RUEHNH  
DE RUEHML #3875 2561011  
ZNR UUUUU ZZH  
O 131011Z SEP 06  
FM AMEMBASSY MANILA  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 2958  
INFO RUEHGP/AMEMBASSY SINGAPORE IMMEDIATE 6991  
RUEHNH/AMCONSUL NAHA IMMEDIATE 0033  
RUWDHAI/NAVCRRIMINVSERV TECHSVC DET SAN DIEGO CA IMMEDIATE  
RUEHML/NAVCRRIMINVSERVRA MANILA RP//FEMQ// IMMEDIATE  
RHHMUNA/CDRUSPACOM HONOLULU HI IMMEDIATE  
RUEKJCS/JOINT STAFF WASHINGTON DC IMMEDIATE  
RUEKJCS/SECDEF WASHDC IMMEDIATE

UNCLAS MANILA 003875

SIPDIS

SIPDIS

E.O. 12958: N/A  
TAGS: [PREL](#) [MARR](#) [KCRM](#) [CASC](#) [RP](#)  
SUBJECT: MARINE CASE: EMBASSY RECEIVES SUBPOENA

REF: MANILA 3770 AND PREVIOUS

¶1. (U) On September 13, Embassy received a Diplomatic Note from the Philippine Department of Foreign Affairs (DFA) officially conveying the subpoena directing NCIS to "appear and present" the clothes worn by LCpl Smith on November 1, ¶2005. The subpoena requests NCIS appear on September 11, though the Diplomatic Note was not received by the Embassy until September 13. The value of these garments as evidence affecting the outcome of this trial is unclear, though they are already en route to Embassy Manila and are expected within the next two to three days.

¶2. (U) Embassy has extended full cooperation to Judge Pozon's court to date, including to the Prosecution. Embassy recommends continuing cooperation to the Defense, which is where this request originated, and acceding to this request.

¶3. (U) Text of the DFA's Dip Note 06-2245 follows.

-----  
BEGIN TEXT

No. 06-2245

The Department of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to refer to Article V of the Agreement between the Government of the Republic of the Philippines and the Government of the United States of America Regarding the Treatment of United States Armed Forces Visiting the Philippines, in relation to the case titled "People of the Philippines vs. LCpl Daniel Smith, et. al.," pending before the Regional Trial Court of Makati City, Branch 139.

In this regard, the Department wishes to convey the attached Subpoena issued 8 September 2006 and received by the Department 11 September 2006, wherein the Honorable Presiding Judge directs the U.S. Naval Criminal Investigation Unit (NCIS) to appear and present on 11 September 2006 at 1:00pm at the 3rd Floor of the Old Session Hall, Makati City, the shirt/garment used by the accused Smith on November 1, 2005 at the Subic Freeport, Olongapo City, which was retrieved by NCIS Investigator Guy Papageorge.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America assurances of its highest consideration.

Pasay City, September 13, 2006

-----

END TEXT

-----

KENNEY